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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 KIRK WILLIAMS,

10 Petitioner,

Case No. C18-1012-RSL-MLP

11 v.

12 JAMES KEY,

13 Respondent.

ORDER DENYING PETITIONER'S  
MOTION FOR APPOINTMENT OF  
COUNSEL AND GRANTING  
PETITIONER'S MOTION FOR  
EXTENSION OF TIME

14 This is a federal habeas action proceeding under 28 U.S.C. § 2254. This matter comes  
15 before the Court at the present time on Petitioner's motions for appointment of counsel and for  
16 an extension of time to file a response to Respondent's answer. (Dkt. ## 24, 29.) Respondent  
17 opposes Petitioner's motion for appointment of counsel, but does not oppose Petitioner's motion  
18 for extension of time. (Dkt. ## 28, 30.)

19 Petitioner's current motion for appointment of counsel is his second such motion.  
20 Petitioner filed his first motion for appointment of counsel early in this action, before his petition  
21 had been served on Respondent. (See Dkt. # 6.) The Court denied the motion on the grounds  
22 that the record was not sufficiently developed at that point for the Court to determine whether an  
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ORDER DENYING PETITIONER'S MOTION  
FOR APPOINTMENT OF COUNSEL - 1

1 evidentiary hearing would be required, and Petitioner had not demonstrated that the interests of  
2 justice would be best served by appointment of counsel. (Dkt. # 7.)

3 In his current motion, Petitioner asks that counsel be appointed to assist him in filing a  
4 response to Respondent's answer to his amended habeas petition. (Dkt. # 24.) In support of this  
5 request, Petitioner asserts that he is not afforded adequate time in the prison law library to  
6 conduct necessary research, that the prison's research computer is not updated regularly, and that  
7 he is no longer permitted to "purchase" case law that would assist him in litigating this matter.  
8 (*See Id.* at 2-3.) Respondent, in his response to Petitioner's motion, asserts that Petitioner is not  
9 entitled to counsel as no discovery or evidentiary hearing has been ordered, and no hearing is  
10 likely to be scheduled. (Dkt. # 28.) Respondent also notes that Petitioner has thus far  
11 demonstrated an ability to litigate this action without the assistance of an attorney. (*Id.* at 3.)

12 There is no constitutional right to have counsel appointed in federal habeas cases brought  
13 under 28 U.S.C. § 2254. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Brown v. Vasquez*,  
14 952 F.2d 1164, 1168 (9th Cir. 1992). However, the rules governing habeas proceedings do  
15 mandate the appointment of counsel if necessary for effective discovery, or if an evidentiary  
16 hearing is required. Rules 6(a) and 8(c) of the Rules Governing Section 2254 Cases in the  
17 United States District Courts. In addition, a Court may exercise its discretion to appoint counsel  
18 for a financially eligible individual where the "interests of justice so require." 18 U.S.C. §  
19 3006A.

20 The record currently before the Court confirms that an evidentiary hearing will likely not  
21 be necessary, and the Court previously rejected Petitioner's request for discovery (*see* dkt. # 25).  
22 Thus, the question is whether the interests of justice require appointment of counsel based on  
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1 Petitioner's claims that he has not had an adequate opportunity to prepare his response to  
2 respondent's answer. This Court concludes that the interests of justice do not require  
3 appointment of counsel in these circumstances. Petitioner has demonstrated a reasonable ability  
4 to litigate this action without counsel, and it appears that Petitioner's concerns regarding  
5 limitations on library access can be addressed by simply providing Petitioner some additional  
6 time to prepare his response.<sup>1</sup>

7 Petitioner, in his current motion for extension of time, asks that he be granted an  
8 additional 60 days to file his response to Respondent's answer. In support of this request,  
9 Petitioner cites to closures of the prison law library in February due to inclement weather and,  
10 again, to a lack of recent updates to the research computer. Petitioner was previously granted a  
11 three-month extension of time to file his response to Respondent's answer. (See Dkt. # 21.) This  
12 extension should have been sufficient, even with reduced library time, for Petitioner to prepare  
13 his response. As Petitioner is apparently struggling to complete his research and draft his  
14 response, the Court is willing to grant Petitioner one final extension.

15 Based on the foregoing, the Court hereby ORDERS as follows:

16 (1) Petitioner's second motion for appointment of counsel (dkt. # 24) is DENIED.

17 (2) Petitioner's second motion for an extension of time to file his response to  
18 Respondent's answer (dkt. # 29) is GRANTED. Petitioner is directed to file his response not  
19 later than **June 10, 2019**. Respondent's answer is RE-NOTED on the Court's calendar for  
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21 <sup>1</sup> To the extent Petitioner complains that the research computer is not regularly updated, his  
22 complaint is too vague to justify the appointment of counsel. In Petitioner's submissions to date,  
23 he appears to have cited to a significant amount of relevant case law. It is unclear why the same  
resources he has apparently relied upon in preparing those submissions are not sufficient for  
purposes of preparing his response.

1 consideration on *June 14, 2019*. Petitioner is advised that no further extensions will be granted.

2 If Petitioner fails to file an answer by the deadline set forth above, the Court will proceed to  
3 disposition of his amended petition based on the briefing in the record on the designated noting  
4 date.

5 (3) The Clerk shall direct copies of this Order to Petitioner, to counsel for  
6 Respondent, and to the Honorable Robert S. Lasnik.

7 DATED this 1st day of April, 2019.

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10 MICHELLE L. PETERSON  
11 United States Magistrate Judge  
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